

REMARKS/ARGUMENTS

No new matter has been added.

The Office Action mailed August 23, 2007, has been received and reviewed. Claims 1-15 are currently pending in the application. Claims 1-15 stand rejected. Applicant has amended no claims, and respectfully requests reconsideration of the application as presented herein.

Claim Rejections under 35 U.S.C. § 103

Claims 1-15 were rejected as being unpatentable over U.S. Patent 6,542,490 to Ahmadvand et al (“Ahmadvand”) in view of U.S. Patent 6,032,197 to Birdwell et al (“Birdwell”). Applicant respectfully traverses this rejection, as hereinafter set forth.

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974); *see also* MPEP § 2143.03. Additionally, there must be “a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1742, 167 L.Ed.2d 705, 75 USLW 4289, 82 U.S.P.Q.2d 1385 (2007). Finally, to establish a *prima facie* case of obviousness there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Furthermore, the reason that would have prompted the combination and the reasonable expectation of success must be found in the prior art, common knowledge, or the nature of the problem itself, and not based on the Applicant’s disclosure. *DyStar Textilfarben GmbH & Co. Deutschland KG v. C. H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006); MPEP § 2144. Underlying the obvious determination is the fact that statutorily prohibited hindsight cannot be used. *KSR*, 127 S.Ct. at 1742; *DyStar*, 464 F.3d at 1367.

The 35 U.S.C. § 103(a) obviousness rejections of claims 1-15 are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art references must teach or suggest all the claims limitations.

Applicant submits that Ahmadvand in view of Birdwell does not render obvious, under 35 U.S.C. § 103, the presently claimed invention of (i) independent claim 1 and claims 2-4 and

11 depending therefrom, (ii) independent claim 5 and claim 6 depending therefrom, (iii) independent claim 7 and claims 8-10 depending therefrom, and (iv) independent claims 12-15, because Ahmadvand in view of Birdwell does not teach or suggest all of the claims limitations.

Claims 1, 12 and 14

Applicant respectfully disagrees that Ahmadvand in view of Birdwell renders obvious Applicant's invention as claimed in independent claims 1, 12 and 14 which read:

1. A method for framing packets in a wireless transmission system supporting broadcast transmissions, the method comprising:
 - generating a portion of an Internet Protocol (IP) packet for transmission;
 - appending a start of frame indicator to the portion of the IP packet;
 - applying an error checking mechanism to the portion of *the IP packet not including a protocol field to identify a payload type*;
 - preparing a frame for transmission, having the start of frame indicator, the portion of the IP packet, and the error checking mechanism; and
 - transmitting the frame without the protocol field.* (Emphasis added).
12. An apparatus for framing packets in a wireless transmission system supporting broadcast transmissions, the apparatus comprising:
 - means for generating a portion of an Internet Protocol (IP) packet for transmission;
 - means for appending a start of frame indicator to the portion of the IP packet;
 - means for applying an error checking mechanism to the portion of the IP packet;
 - means for preparing a frame for transmission, having the start of frame indicator, *the portion of the IP packet* and the error checking mechanism and *not including a protocol field to identify a payload type*; and
 - means for *transmitting the frame without the protocol field.* (Emphasis added).
14. A computer program stored on a computer-readable storage unit, the computer program for framing packets in a wireless transmission system supporting broadcast transmissions, the computer program comprising:
 - a first set of instructions for generating a portion of an Internet Protocol (IP) packet for transmission
 - a second set of instructions for appending a start of frame indicator to the portion of the IP packet;
 - a third set of instructions for applying an error checking mechanism to the portion of the IP packet;
 - a fourth set of instructions for preparing a frame for transmission, having the start of frame indicator, the portion of the IP packet and the error checking

mechanism and *not including a protocol field to identify a payload type*; and
a fifth set of instructions for *transmitting the frame without the protocol field*.
(Emphasis added).

Applicant respectfully asserts that Applicant's invention as presently claimed in independent claims 1, 12 and 14 recite, in part, "*not including a protocol field to identify a payload type*" and "*the frame without the protocol field*". The Office Action alleges:

Regarding claims 1, 12, and 14, ... *Ahmadvand fails to teach* for framing and transmitting *IP packet not including a protocol field*.

However, *Birdwell discloses* a broadcast transmission system for transmitting IP packets using compress[ed] header, wherein *the protocol field of the packet is not used in the compressed header* (fig. 5 col. 5 lines 59-65). (Office Action, pp. 2-3; emphasis added).

Applicant respectfully asserts that Applicant's entire claim language has not been applied in the rejection. Generally, the alleged un-included "protocol" field in Birdwell is for identifying a "header" type and **not** a "payload" type as claimed by Applicant. Specifically, Applicant's invention as presently claimed in independent claims 1, 12 and 14 recite, in part, "*protocol field to identify a payload type*". However, the "protocol" field of Birdwell is completely unrelated to the payload type and applies to a "header" type. Specifically, Birdwell teaches with reference to Birdwell's Figs. 4-5:

A 16-bit *protocol* block *42 identifies* the protocol *format for* the *header 40*. (Birdwell, col. 4, lines 55-56; emphasis added).

Clearly, the "protocol field" 42 that is present in packet 50 of Birdwell's Fig. 4 and absent in packet 60 of Birdwell's Fig. 5 is **not** "*a protocol field to identify a payload type*" as claimed by Applicant. Furthermore, Birdwell is clear that the field that identifies the "payload type" is present in both packet 50 of Birdwell's Fig. 4 and packet 60 of Birdwell's Fig. 5. In this regard, Birdwell specifically teaches:

The 16-bit *packet identification field*, for example, *is the same in both uncompressed headers* [40 of Birdwell's Fig. 4] *and compressed headers* [62 of Birdwell's Fig. 5]. (Birdwell, col. 5, lines 34-36; emphasis added).

Therefore, since by the Office Action's admission, "Ahmadvand fails to teach ... IP packet not including a protocol field" (Office Action, p. 3) and Birdwell's teaching that the "packet identification field [] is the same in both uncompressed headers and compressed headers" (Birdwell, col. 5, lines 34-36), these references, either individually or in any proper combination, do not teach or suggest Applicant's invention as presently claimed in independent claims 1, 12 and 14 reciting, in part, "*not including a protocol field to identify a payload type*" and "the frame without the protocol field".

Accordingly, these references **cannot** render obvious, under 35 U.S.C. §103, Applicant's invention as presently claimed in independent claim 1 and claims 2-4 and 11 depending therefrom, and independent claims 12 and 14, because Ahmadvand in view of Birdwell does not teach or suggest all of the claims limitations.

Claim 5

Applicant respectfully disagrees that Ahmadvand in view of Birdwell renders obvious Applicant's invention as claimed in independent claim 5 which reads:

5. A communication signal transmitted via a carrier wave, comprising:
a payload portion corresponding to a portion of an Internet Protocol (IP) packet of digital information and *not including a protocol field to identify a payload type*;
a start of frame portion corresponding to the payload portion, and identifying a status of the payload portion within an IP packet; and
an error checking portion for verifying the payload portion. (Emphasis added).

Applicant herein sustains the above-proffered arguments. Therefore, since by the Office Action's admission, "Ahmadvand fails to teach ... IP packet not including a protocol field" (Office Action, p. 3) and Birdwell's teaching that the "packet identification field [] is the same in both uncompressed headers and compressed headers" (Birdwell, col. 5, lines 34-36), these

references, either individually or in any proper combination, do not teach or suggest Applicant's invention as presently claimed in independent claim 5 reciting, in part, "***not including a protocol field to identify a payload type***".

Accordingly, these references **cannot** render obvious, under 35 U.S.C. §103, Applicant's invention as presently claimed in independent claim 5 and claim 6 depending therefrom, because Ahmadvand in view of Birdwell does not teach or suggest all of the claims limitations.

Claims 7, 13 and 15

Applicant respectfully disagrees that Ahmadvand in view of Birdwell renders obvious Applicant's invention as claimed in independent claims 7, 13 and 15 which read:

7. A method for receiving framed packets in a wireless transmission system supporting broadcast transmissions, the method comprising:

receiving a frame of a packet transmission wherein the frame contains a payload portion of an Internet Protocol (IP) packet and ***does not include a protocol field to identify a payload type***, the frame having a start of frame portion, a payload portion, and an error check portion, ***the frame not including the protocol field***;

identifying the frame as a start frame in the packet transmission;
verifying the frame using the error check portion of the frame; and
processing the payload portion of the frame. (Emphasis added).

13. An apparatus for receiving framed packets in a wireless transmission system supporting broadcast transmissions, the apparatus comprising:

means for receiving a frame of a packet transmission wherein the frame contains a payload portion of an Internet Protocol (IP) packet and ***does not include a protocol field to identify a payload type***, the frame having a start of frame portion, a payload portion, and an error check portion, ***the frame not including the protocol field***;

means for identifying the frame as a start frame in the packet transmission;
means for verifying the frame using the error check portion of the frame; and
means for processing the payload portion of the frame. (Emphasis added).

15. A computer program stored on a computer-readable storage unit, the computer program for receiving framed packets in a wireless transmission system supporting broadcast transmissions, the computer program comprising:

- a first set of instructions for receiving a frame of a packet transmission wherein the frame contains a payload portion of an Internet Protocol (IP) packet and ***does not include a protocol field to identify a payload type***; the frame having a start of frame portion, a payload portion, and an error check portion, ***the frame not including the protocol field***;
- a second set of instructions for identifying the frame as a start frame in the packet transmission;
- a third set of instructions for verifying the frame using the error check portion of the frame; and
- a fourth set of instructions for processing the payload portion of the frame. (Emphasis added).

Applicant herein sustains the above-proffered arguments. Therefore, since by the Office Action's admission, "Ahmadvand fails to teach ... IP packet not including a protocol field" (Office Action, p. 4) and Birdwell's teaching that the "packet identification field [] is the same in both uncompressed headers and compressed headers" (Birdwell, col. 5, lines 34-36), these references, either individually or in any proper combination, do not teach or suggest Applicant's invention as presently claimed in independent claims 7, 13 and 15 reciting, in part, "***does not include a protocol field to identify a payload type***".

Accordingly, these references **cannot** render obvious, under 35 U.S.C. §103, Applicant's invention as presently claimed in independent claim 7 and claims 8-10 depending therefrom, and independent claims 13 and 15 because Ahmadvand in view of Birdwell does not teach or suggest all of the claims limitations.

CONCLUSION

Claims 1-15 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Date: November 21, 2007

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